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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIEGO LUA-GARCIA,

Defendant.

CASE NO. 1:20-CR-00031-JLT-BAM

STIPULATION TO VACATE TRIAL AND SET
CASE FOR CHANGE OF PLEA HEARING AND
ORDER THEREON

Date: December 12, 2023

Time: 8:30 a.m.

Honorable Jennifer L. Thurston

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order this case was set for a trial on December 12, 2023, at 8:30 a.m. before the Hon. Jennifer L. Thurston. The parties hereby agree to vacate the trial, set the case for a change of plea hearing on April 22, 2024, at 10:00 a.m. before Hon. Jennifer L. Thurston, and exclude Speedy Trial time between the filing of this stipulation through April 22, 2024.
2. Defense counsel requires additional time to meet with his client, review the discovery, work on a resolution of the case, and prepare for the change of plea hearing.
3. The proposed change of plea date represents the earliest date that all counsel are available for the change of plea, taking into account work that defense counsel needs to complete on the case, counsels' schedules, and the need for preparation in the case and further investigation.
4. An ends-of-justice delay is particularly apt in this case because the defendant is currently out on pretrial release.

1 The parties further believe that time should be excluded, in that failure to grant the requested
2 case schedule would unreasonably deny the defendants continuity of counsel, and unreasonably deny
3 both the defendants and the government the reasonable time necessary for effective preparation, taking
4 into account the parties' due diligence in prosecuting this case. 18 U.S.C. Section 3161(h)(7)(B)(iv).
5 Based on the above-stated findings, the ends of justice served by the schedule as requested outweigh the
6 interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial
7 Act. Therefore, the parties request that the Court exclude the time from September 21, 2023 until the
8 change of plea hearing on April 22, 2024, from calculations under the Speedy Trial Act.

9 IT IS SO STIPULATED.

10 Dated: September 21, 2023

PHILLIP A. TALBERT
United States Attorney

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12 By: /s/ JUSTIN J. GILIO
13 JUSTIN J. GILIO
14 Assistant United States Attorney

15 Dated: September 21, 2023

/s/ Victor Perez
Attorney for Defendant
Diego Lua-Garcia

ORDER

IT IS HEREBY ORDERED that the trial in this case be VACATED and the case is set for a change of plea hearing on April 22, 2024, at 10:00 a.m. before the Hon. Jennifer L. Thurston.

IT IS FURTHER ORDERED THAT the ends of justice served by the schedule set forth herein as requested outweigh the interest of the public and the defendants in a trial within the original date prescribed by the Speedy Trial Act for the reasons stated in the parties' stipulation. For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of September 21, 2023, and April 22, 2024, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at the parties' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial

IT IS SO ORDERED.

Dated: **September 26, 2023**


UNITED STATES DISTRICT JUDGE